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W.P.

Town of Carolina Beach  
**CZIC COLLECTION**

**CODES MODIFICATION STUDY**

COASTAL ZONE  
INFORMATION CENTER



North Carolina Coastal Management Program.

KFN  
7858  
.A35  
C62  
1975

# CZIC COLLECTION

CODE/ORDINANCE REVIEW AND MODIFICATION  
FOR CONSISTENCY WITH FEDERAL INSURANCE  
ADMINISTRATION AND COASTAL AREA  
MANAGEMENT ACT STANDARDS

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North Carolina Coastal Management Program

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## INTRODUCTION

Pursuant to the requirements of the Coastal Area Management Act of 1974, as amended, coastal counties and municipalities are required to eliminate inconsistencies and deficiencies from their local ordinances and regulations in reference to their respective land use plans along with the rules, regulations and guidelines established by the Coastal Area Management Act.

This study will review the requirements of the Coastal Area Management Act and the Federal Insurance Administration of the U. S. Department of Housing and Urban Development along with the local ordinances of the Town of Carolina Beach to determine the necessary changes and/or amendments to the applicable local ordinances to insure consistency with the aforementioned State Act and Federal Program.

The proposed changes and/or amendments that this study produces will be offered to the officials of the Town of Carolina Beach for their consideration to provide a logical and rational method of comprehensively revising applicable local ordinances to maintain their utility in the provision of satisfactory land use and development control for the purpose of protecting those area within the Town's jurisdiction from improper development which could limit the amount of natural resources and also provide adequate financial protection of the Town's man-made facilities which are an integral part of the Town's economic and social environment.

### HUD-FIA Flood Regulations (Summary)

With the passage of the National Flood Insurance Act of 1968, flood insurance has been available to owners of properties who up to that time could not be insured due to the flood-prone areas where their properties were located, then with the Flood Disaster Protection Act of 1973 conditions were imposed whereas for the owner of flood-prone property to receive federally assisted flood insurance; the community where such properties are located would be required to participate in the flood management program to the extent that the rules and regulations of the program would be enforced throughout the community in order to minimize the flood potential.

Prior to a community receiving eligibility to sell federally assisted flood insurance, a risk study was required in order to establish rates. Along with the risk study, communities were also required to establish flood hazard areas through the use of Flood Hazard Boundary Maps (FHBM) and Flood Insurance Rate Maps (FIRM). These maps established the location of flood prone areas therefore indicating where flood proof construction should be utilized in order to minimize the flood damage potential.

Pursuant to the operation of the National Flood Insurance Program, communities authorized for flood insurance benefits are required to adopt and enforce adequate flood plain management regulations consistent with or exceeding the criteria established by the Federal Insurance Administration of the U. S. Department of Housing and Urban Development.

### Coastal Area Management Act (Summary)

In keeping with the national objectives to protect and preserve our natural resources along the coastal areas, the General Assembly enacted the Coastal Area Management Act to provide this protection through established steps and procedures.

The Act is presented in Chapter 113A of the North Carolina General Statutes and is set up in four (4) parts - which include: (a) Organization and Goals, (b) Planning Process, (c) Areas of Environmental Concern, and (d) Permit Letting and Enforcement.

The first part presents the findings of the legislature in regard to protecting the coastal resources by establishment of the goals of the CAMA. Part one also establishes the Coastal Resources Commission (CRC) which has the responsibility for reviewing changes to the Act and other factors that affect the bearing of the Act on the environment through the planning and/or development process.

Part two establishes the provision that certain planning processes shall be utilized in the costal area by the respective governments. Pursuant to this part, Land Use Plans were prepared using the planning processes authorized by the Act and that once the respective Land Use Plans were approved by the respective local governments, all local ordinances affecting land use shall be made consistent with the provisions of the Plans.

In connection with the establishment and identification of fragile areas that are incompatible for development, part three enumerates the guidelines for identification of areas of environmental concern (AEC's). These

areas include coastal wetlands, estuarine waters, watersheds, national/state parks, historic areas, river systems, existing wildlife ref<sup>u</sup>uges and other natural hazard areas. The procedure for designating AEC's is included in this section and establishes the CRC as the authority responsible for AEC's.

Lastly, part four establishes the procedures for obtaining the necessary permits for development within AEC's and also establishes local governments are permit letting agencies for "minor" development permits. Minor development is defined as a development which does not need prior approval of the Environmental Management Commission, the Department of Human Resources, the State Department of Natural Resources and Community Development, the State Department of Administration, the North Carolina Mining Commission, the North Carolina Pesticides Board, or the North Carolina Sedimentation Control Board, and does not occupy more than twenty (20) acres of land or water area, or perform any drilling or excavation for natural resources on land or under water, or which occupies on a single parcel a structure or structures which are in excess of 60,000 square feet of area.

Part four also states that "major" development or a proposed development which will require one or more of the steps listed under the minor development permit revisions which are not required, shall first obtain a major development permit which shall be requested from the Coastal Resources Commission.

CAMA Implementation and Enforcement Plan (Summary)

Pursuant to the requirements of the Coastal Area Management Act, communities which had filed letters of intent to act as permit-letting agencies under the minor development permit provisions of the act were asked to create and adopt implementation and enforcement plans which specified the purposes and procedures applicable to the minor development permit regulations.

Principally, the major purpose of these plans was to specify the local official responsible for carrying out the provisions of the act within the affected jurisdiction.

Components of the plan adopted by the Town of Carolina Beach include, purposes of the plan, geographical extent of jurisdiction, designation of the local official responsible for the plan's implementation, description and requirements for obtaining minor development permits, injunctive relief and penalties associated with violations of the act, amending the plan, procedures for response to complaints about enforcement of the plan and procedures to ensure consistency between the permit program and the land use plan along with ordinances relative to land uses in areas of environmental concern.

Flood Control Ordinance (Summary)

Pursuant to the availability of Federal Flood Insurance Program, the Town of Carolina Beach adopted a Flood Protection Ordinance in 1974 which established adequate, minimum standards and procedures applicable to construction and repair of residential and nonresidential structures, whereby such structure would be eligible for insurance under the above program.

Also included within the above ordinance are requirements and information relative to definitions of specific terms, designation of flood prone areas by description and maps, flood-proofing construction standards and, compliance measures with the aforementioned standards to insure eligibility under the program.

Specifically, the ordinance as presented established the initial requirements for the Town to become eligible for insurance under the emergency provision of the program's enabling legislation.



### Flood Damage Prevention Ordinance (Summary)

Like the Flood Control Ordinance adopted by the Town in 1974, the Flood Damage Prevention Ordinance speaks to the control and regulation of development within flood prone areas. The purposes of such regulation is the restriction of uses which are dangerous to health, safety, and property due to water in flood heights or velocities.

Specifically, the ordinance contains provisions relative to: the statutory authority authorizing the ordinance, the purposes for the ordinance, geographic areas where the ordinance shall be enforced, the interpretation of the ordinance, the responsible local official, permit and variance procedures along general and specific standards for the reduction of flood hazards.

The standards provision of the ordinance, which is the "meat" of the ordinance outlines the specific requirements for new construction and substantial improvement of structures within floodways and coastal high hazard areas. The placement of mobile homes is also addressed to the effect of making such structures safe from flooding by flood proofing measures.

By comparison of the Flood Damage Control Ordinance and the specific requirements of the Federal Insurance Administration, it is observed that the ordinance contains all required minimum standards of FIA regulations, therefore, assuring compliance with the criteria of flood management program.

## North Carolina State Building Code (Summary)

Basically, the North Carolina State Building Code is the collection of all applicable laws dealing with construction, materials and above all the protection of the public from defects in construction workmanship and materials that could affect their health and welfare.

The Code affects every building in a community where the Code has been adopted and all new construction, repair and renovation must proceed only within accordance with the Code. The purpose of the code is to provide minimum standards, provisions and requirements for safe and stable design, methods of construction and uses of materials in buildings and/or structures.

Also, the Code establishes certain minimum standards for construction and materials within fire limits and also establishes penalties for violations of the Code.

The Code establishes the Building Inspector as the individual responsible for enforcing the provisions of the Code and along with the general statutes gives certain powers to the inspector so that he carry out his responsibilities.

Zoning Ordinance (Summary)

Pursuant to the Police power as outlined in the Constitution, the Town of Carolina Beach has adopted and enforces zoning regulations which are designed to promote the health, safety, morals and general welfare of the community by lessening congestion in the streets, securing safety from fire, panic and other dangers, to provide adequate light and air, preventing the overcrowding of land, avoiding undue concentration of population, and facilitating the adequate provisions of transportation, water, sewerage, schools and other public requirements.

From these regulations, similar land uses are grouped into specific districts where the public infrastructure is adequate and also by virtue of the regulations land uses that are incompatible with each other are separated as much as possible.

Presently, there are eleven separate districts ranging from low density residential to amusements with some special uses allowed by permit.

### Subdivision Ordinance (Summary)

Pursuant to the authority to regulate the division and development of land, the Town of Carolina Beach enforces rules and regulations identified as Subdivision Regulations. To provide for orderly growth of the Town and its environs along with existing development, the subdivision regulations are utilized to provide for adequate water supply, waste and wastewater disposal, transportation and to insure proper legal description, monumentation, and recording of land records. By these assurances, the Town creates conditions essential to the public safety and welfare.

Within the text of the regulations, the procedures for platting and replatting of land are discussed along with the methods of public review of such plats. Also, within these regulations, minimum design standards are enforced through which the Town protects the public from future problems associated with inadequate streets, and public utilities, which are provided by the developer prior to the sale of platted lots.

Primary Fire Limits (Summary)

As called for in the North Carolina General Statutes 160A-436-438, Fire Limits have been established for the principal protection of the business district where construction setbacks are minimal and the relative price of land for construction is very high, therefore, structures will likely be more than one story in height.

Within the past year, the Town has amended its primary fire limits to include only those areas within the business district and other peripheral areas that abut the district. Prior to this change, the primary fire limits well into residential areas which was in effect lessening growth potentials and encouraging the deterioration of single family/multi-family housing in residentially zoned areas.

It is anticipated that there will be no further change in the primary fire limits within the near future.

## Recommendation and Proposed Amendments

As stated earlier, the primary purpose of this study is to review the requirements of the Coastal Area Management Act and Federal Flood Insurance Program and suggest necessary changes and amendments to the Town's local ordinances to insure compliance with the Act and Insurance program.

The applicable local ordinances include the Zoning Ordinance, Flood Damage Control Ordinance, Flood Control Ordinance and Subdivision Ordinance. These ordinances were reviewed and are referenced below according to suggested changes and/or amendments that are in accordance with the State Guidelines for Areas of Environmental Concern, which is found in Chapter 15 of the North Carolina Administrative Code, Subchapter 7H, and the HUD-FIA Flood Insurance Program along with a brief narrative describing the reasons for such changes and amendments.

### a. Zoning Ordinance

The Zoning Ordinance of the Town of Carolina Beach is the most comprehensive single land use control device of the Town's ordinances and incorporates provisions of regulations which effect the standards of 15 NCAC 7H and the Insurance Program.

After review of the ordinance, it was noted that provisions for the review and approval of building permits to be in compliance with the AEC guidelines were not included. Also, the possibilities of inconsistencies between estuarine shoreline and ocean hazard areas on the zoning map. Also, the ordinance references the use of the Flood Control Ordinance, which should be superseded by use of the Flood Damage Control Ordinance.

From these noted observations, the following amendments are recommendations to the Zoning Ordinance:

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF CAROLINA BEACH;

THAT Section 9-1002 is hereby amended to the following:

"It shall be the duty of the Inspection Department to enforce all of the provisions of this chapter and of the regulatory codes adopted

herein, and to make all inspections necessary to determine whether or not the provisions of this chapter and such codes are being met. The North Carolina State Building Code, Volume I, General Construction, the North Carolina Uniform Residential Building Code, the provisions of the Coastal Area Management Act, as found in Chapter 113A, Article 7 of the North Carolina General Statutes, and the rules and regulations of HUD-FIA National Flood Insurance Program shall be enforced by the Building Inspector. The North Carolina Plumbing Code shall be enforced by the Plumbing Inspector. The North Carolina Heating Code shall be enforced by the Heating-Air Conditioning Inspector. The North Carolina State Electrical Code shall be enforced by the Electrical Inspector.", and;

THAT Section 9-4003 of the Code of Ordinances be amended by the addition of the following after item (14) of Section 9-4003:

"AEC Overlay District. For water-related uses as enumerated by the provisions and regulations of Chapter 15 of the North Carolina Administrative Code, Subchapter 7H and Chapter 113A, Article 7 of the North Carolina General Statutes.", and;

THAT Section 9-4005 be amended by the addition of the following:

"AEC: (Area of Environmental Concern) A geographic area established by the Coastal Resources Commission of the State of North Carolina or its successor that possesses certain resources and/or qualities further identified in Chapter 113A of the North Carolina General Statutes, and Chapter 15 of the North Carolina Administrative Code, Sub-

chapter 7H. Such areas may include singly or a combination of coastal wetlands, estuarine waters, renewable resource areas such as watersheds or aquifers, prime forestry lands, capacity use areas where it has been determined that a generalized condition of water depletion of water or air pollution exists, fragile or historic areas where incompatible development could result in major or irreversible damage to important cultural, scientific or scenic values or natural systems such as existing national or state parks, areas acquired or designated for acquisition by the governmental agency for the above reasons and other geographic areas which are designated as areas of environmental concern pursuant to Chapter 15 of the North Carolina Administrative Code, Subchapter 7H," and;

THAT Section 9-4039.1 be added to the schedule of districts, and shall contain the following:

"Section 9-4039.1 AEC Overlay District.

This district is established for those areas designated as Areas of Environmental Concern or interim Areas of Environmental Concern as described by Chapter 15 of the North Carolina Administrative Code, Subchapter 7H. This district shall co-exist with any and all other use districts and in the event of conflict with the requirements of this district and any other district requirements, the requirements of the AEC district shall take precedence over the requirements of the conflicting district(s) regulations. All conflicts between the requirements of the AEC Overlay District and other districts shall



be resolved by the designated official responsible for carrying out the requirements of Chapter 113A, Article 7 of the North Carolina General Statutes and such resolution of conflict shall be stated in writing not less than ten (10) days after such resolution with copies of the determination available to all parties and/or persons affected by the determination. The boundaries and limits of the AEC Overlay District shall be determined by the above designated official in accordance with statements, maps, and other documents as provided by the above, and shall be included with the Official Zoning Map of the Town of Carolina Beach either by reference or appended thereto.

(1) Permitted Uses.

All uses permitted by the district regulations contained in this chapter provided that the provisions of Section 9-4040 are observed and complied with prior to the issuance of the required permits for the proposed use.

(2) Required Yards.

As required by the district regulations contained in this chapter.

(3) Signs.

As permitted by Section 9-4021 of this chapter.

(4) Off-Street Parking Requirements.

As required by Section 9-4024 of this chapter," and;

THAT Section 9-4020 (4) of the Code of Ordinances be amended to the following:

"(4) The provisions of Ordinance No. (1978)79, (Flood Damage Protection Ordinance), shall take precedence over any conflicting sections of this chapter. The same may be viewed in the office of the Town Clerk or Building Inspector.", and;

THAT Section 9-4040 of the Code of Ordinances be amended to the following:

"Prior to issuance of a building or other required permit for any new construction and/or repair/alteration, the Building Inspector, in his capacity as the designated official responsible for minor development permits, shall determine the applicability of the provisions of Chapter 113A, Article 7 of the North Carolina General Statutes and especially the State Guidelines for Areas of Environmental Concern (AEC) (15 NCAC 7H) in reference to the property that the permit is being applied for, and if the subject property is located within an Area of Environmental Concern, the Inspector shall state this determination in writing and advise the applicant and/or owner of the property that the provisions of the CAMA must be complied with satisfactorily prior to the issuance of a building permit. If the subject property is not located within an AEC, the Inspector shall state this determination in writing and advise the applicant and/or owner of this determination. All determinations made under this section shall state the location of the property in question by appropriate reference and shall state the exact date that the determination was made and a copy shall be made available to the applicant and/or owner along with a copy kept on file in the Inspection Department as public record."

b. Flood Damage Control Ordinance.

After review of the ordinance, it was noted that the provisions of the ordinance were in accordance with the criteria of the flood management program and more specifically the ordinance included all necessary provisions of the insurance program. Therefore, in reference to the ordinance, no changes and/or amendments are necessary to comply with the insurance program, however, it is recommended that the Flood Control Ordinance, identified as Ordinance No. (1974)55 be repealed and the above ordinance be used in place of Ordinance (1974)55 in all other regulations and ordinances referencing the Flood Control Ordinance.

c. Flood Control Ordinance.

After review of the ordinance and the FIA regulations, the previous recommendation of repealing this ordinance and including the Flood Damage Control Ordinance as its replacement is recommended, due to the fact that the existing Flood Control Ordinance No. (1974)55 does not include the current requirements and references as called for in the FIA regulations.

Therefore, the below amendment is recommended to the Town of Carolina Beach.

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF CAROLINA BEACH;

THAT Ordinance No. (1974)55, of the Code of Ordinances be repealed, effective immediately, and that the provisions of Ordinance No. (1978)79 be adhered to and;

THAT Ordinance No. (1978)79 be substituted in place of Ordinance No. (1974)55 as called for in the applicable chapters and/or sections of the Code of Ordinances of the Town of Carolina Beach.

d. Subdivision Ordinance.

Along with the zoning ordinance, the Town utilizes the subdivision regulatory power granted through the North Carolina General Statutes and control the division and development of land within the Town's jurisdiction thereby insuring that the costs of necessary public facilities are not placed on the existing tax base and that the subdivision will comply with all applicable standards affording protection to the prospective buyer of land within the subdivision and to the existing developed and undeveloped land, man-made and natural resources which may be damaged or destroyed due to improper development.

After review of the ordinance and other requirements, it was noted prior to the installation of required improvements pursuant to the preliminary plat, that the subdivision design, layout of lots and location of improvements should be reviewed against the provisions and guidelines of the Coastal Area Management Act for compliance prior to the preliminary plat approval. Also noted was the reference to Ordinance No. (1974)55, which has been recommended for replacement by the more current provisions of the Flood Damage Control Ordinance.

From these observations, it is recommended that the following amendments be considered to the Subdivision Ordinance to provide compliance with: Chapter 113A of the North Carolina General Statutes, Article 7; Chapter 15 of the North Carolina Administrative Code, Subchapter 7H and; the FIA regulations.

Subdivision Admendments.

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF CAROLINA BEACH;  
THAT Section 9-3021 of the Code of Ordinances be amended to the following:

"Jurisdiction of these regulations shall include all incorporated lands and waters within the Town and those lands and waters within the extra-territorial area as defined in Ordinance (1976)6, entitled: an ordinance establishing extraterritorial jurisdiction for municipal regulatory powers conferred by Article 19 of Chapter 160A of the North Carolina General Statutes. Such lands shall include the flood hazard areas as shown on a map entitled FIA Flood Hazard Boundary Map No. H01, (community no. 375347B), and any subsequent amendments thereto."  
and;

THAT Section 9-3044 of the Code of Ordinances be amended to include the following:

"Notwithstanding the provisions of this chapter, the preliminary plat of the proposed subdivision shall be prepared in accordance with the provisions of Ordinance No. (1978)79, entitled Flood Damage Prevention Ordinance, and specifically with Article 5, Section D of the aforementioned ordinance.", and;

THAT Section 9-3044 of the Code of Ordinances be amended to include the following certificate which shall appear (lettered or stamped) on the preliminary plat:

THAT Section 9-3111 of the Code of Ordinances be amended to include the following:

""Frontal Dune." In areas where there is a primary dune, that dune shall be deemed to be the frontal dune. Where there is no primary dune, the frontal dune is deemed to be the first mound of sand located landward of the ocean beach having sufficient vegetation, height, continuity and configuration to offer protective value. Man-made mounds shall not be considered to be frontal or primary dunes., and

"Primary Dunes." Primary dunes are the first mounds of sand located landward of the ocean beaches having an elevation equal to the mean flood level (in a storm having a one percent chance of being equalled or exceeded in any given year) for the area plus six (6) feet. The primary dune extends landward to the lowest elevation in the depression behind the same mound of sand (commonly referred to as the dune trough)."

Certificate of Compliance with Coastal Area Management Standards.

I, \_\_\_\_\_, the duly designated local official (minor permit officer) pursuant to the requirements of the Coastal Area Management Act, as enumerated in Chapter 15 of the North Carolina Administrative Code, Subchapter 7H, hereby certify that this preliminary plat meets the requirements of the rules, regulations, and guidelines of the aforementioned Chapter, as applicable.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Building Inspector  
Town of Carolina Beach

,and;

THAT Section 9-3071 of the Code of Ordinances of the Town of Carolina Beach be amended to include the following:

"Notwithstanding the provisions of this chapter, all lots of a proposed subdivision shall be so designed and/or laid out in a fashion such that adequate space is provided for the placement of structures and/or other improvements on the subject lot or lots without altering or otherwise disturbing the frontal dunes, as defined by Section 9-3111. If this above provision is held to be in conflict with any other regulation of this chapter or other requirement, the more restrictive of the conflicting requirements shall be adhered to. This provision is not to be construed as limiting other requirements of this chapter, such as building setback lines or other requirements when conflicts arise. All necessary provisions of this chapter shall be complied unless approval for a variance from such requirements is given by the appropriate jurisdictional agency or agencies.", and;

### Environmental Assessment Statement

The recommendations of this study are intended to update and insure conformance of the ordinances of the Town of Carolina Beach with the standards and provisions of the Coastal Area Management Act of 1974, as amended and the U. S. Department of Housing and Urban Development - Federal Insurance Administration, so that any question or conflict between local ordinances and the above Act and Insurance Program will minimize and/or alleviate during the enforcement of the above ordinances, Act, and Insurance Program.

The environmental impact of the proposed recommendations to the ordinances of the Town of Carolina Beach is expected to have beneficial impact if carried out, due to the fact that the recommendations if implemented will insure maximum protection for areas identified as having environmental characteristics which are limited or fragile in reference to encroachment of development and also minimize the potential for flood damage due to development in areas identified as having potential flood hazards. It is anticipated that no adverse impacts will occur should the recommendations of this study be implemented, therefore no mitigation will be necessary.

The relationship of the proposed recommendations between short-term use of man's environment and the maintenance and enhancement of long term productivity is presumed to be a beneficial one. Specifically, the implementation of the recommendations of this study will protect man's environment by the limitation of development within areas where such development would be incompatible due to damage to natural resources that are limited and nonrenewable and by the modification of development so that man can co-exist with his environment without increasing the amount of potential and actual damage or harm to man, development, and the natural resources.

The implementation of these recommendations will not result in a tangible increase of resource commitment, but will more effectively direct those existing and future committed resources to fulfilling the objectives that the present resources are committed for.